

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2021-143-ETHICS-A**

IN THE MATTER OF

DONALD C. HODGE JR.

*** AGENCY TRACKING NO. 5121-004**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested a hearing to have the Ethics Adjudicatory Board determine whether Donald C. Hodge Jr. failed to file a supplemental campaign finance report for the 2019 calendar year by the eleventh day after it was due, in connection with his 2015 candidacy for Louisiana Commissioner of Insurance. The Louisiana Board of Ethics proved by clear and convincing evidence that Donald C. Hodge Jr. failed to file the report as alleged. Pursuant to La. R.S. 18:1505.4(A)(4)(b), the Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000 against Donald C. Hodge Jr. for his failure to timely file his 2019 supplemental campaign finance report.

APPEARANCES

The hearing in this matter was conducted March 26, 2021, in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board (EAB).¹ Charles E. Reeves Jr. appeared as counsel on behalf of the Louisiana Board of Ethics (BOE). Although duly noticed, Donald C. Hodge Jr. (Respondent) did not appear for the hearing.²

¹ The Panel consisted of administrative law judges Lance B. Vinson (presiding), A. Brock Avery, and Sherlyn D. Shumpert.

² See BOE-10 (The *Conference Report and Order* setting the hearing was transmitted by U.S. mail to the last known address of Respondent on January 19, 2021, by the Administrative Hearings Clerk for the Division of Administrative Law, with correspondence notifying Respondent of the hearing date and time. These documents are part of the record in this matter and the Board of Ethics included them as an exhibit that was admitted into evidence.).

STATEMENT OF THE CASE

The BOE, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, imposed a *Late Fee Assessment Order* against Respondent for failing to timely file a supplemental campaign finance report as required by La. R.S. 18:1495.4D(3)(a) for calendar year 2019, in connection with his 2015 candidacy for Louisiana Commissioner of Insurance.

The BOE then requested a hearing to have the EAB determine whether Respondent failed to file this supplemental campaign finance report within the eleven-day period after it was due, which could subject him to an additional civil penalty not to exceed \$10,000 pursuant to La. R.S. 18:1505.4(A)(4)(b).

At the hearing, counsel for the BOE offered and introduced eleven exhibits,³ which were admitted into evidence. Counsel presented the case on behalf of the BOE, the record was closed, and the matter was submitted for decision.

This adjudication is conducted in accordance with Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the Campaign Financial Disclosure Act, La. R.S. 18:1481, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation for the Division of Administrative Law, La. R.S. 49:991, *et seq.*

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for the office of Louisiana Commissioner of Insurance, in the October 24, 2015, primary election.⁴
- 2) Louisiana Commissioner of Insurance is a “major office.”⁵

³ The exhibits had been marked for identification as BOE-1 through BOE-11 and certified by affidavit to be true and correct copies of the BOE records. *See* BOE-1 (March 17, 2021, affidavit of Kristy Gary, Deputy Ethics Administrator for the BOE) and BOE-11 (March 26, 2021, affidavit of Carolyn Abadie Landry, Executive Secretary for the BOE).

⁴ *See* BOE-2.

⁵ *See* La. R.S. 18:1483(11) (defining “major office”).

- 3) Respondent received thirteen percent of the vote in the primary election and did not qualify to participate in the general election.⁶
- 4) When Respondent qualified as a candidate for the October 24, 2015, primary election, he acknowledged that he was subject to the provisions of the CFDA.⁷
- 5) On June 2, 2017, Respondent filed a Candidate's Report for the period of January 1, 2016, through December 31, 2016, which stated his funds on hand at close of the reporting period totaled \$13,325.17.⁸
- 6) Respondent did not file his supplemental campaign financial disclosure report for calendar year 2019, by the February 17, 2020, deadline, and he did not file that report by February 28, 2021, the eleventh day after it was due.⁹
- 7) On October 13, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent that assessed late fee of \$2,500 and ordered Respondent to file his supplemental campaign financial disclosure report for calendar year 2019 within twenty days of his receipt of the order.¹⁰ The *Late Fee Assessment Order* was sent to Respondent by certified mailed at 4148 Palm Street, Baton Rouge, Louisiana 70808, and he received it October 14, 2020.¹¹ Respondent was notified in the letter accompanying the *Late Fee Assessment Order* that he could be subject to "an additional \$10,000 penalty" if he failed to file his supplemental campaign financial disclosure report for calendar year 2019.¹²
- 8) On January 8, 2021, the BOE mailed a copy of the *Request for Hearing* to Respondent,

⁶ See BOE-3.

⁷ See BOE-2, p. 2.

⁸ See BOE-4, p. 8.

⁹ The statutory deadline of February 15, 2020, fell on a Saturday, and the next business day was February 17, 2020. BOE-7, *Affidavit* of Angela Newsom, establishes Respondent did not file the report by the deadline or at any point between the deadline and March 12, 2021.

¹⁰ See BOE-6.

¹¹ *Id.*

¹² *Id.* at p. 1.

and written discovery, by certified mail, return receipt requested, to 4148 Palm Street, Baton Rouge, Louisiana 70808.¹³

CONCLUSIONS OF LAW

Respondent knowingly failed to file his supplemental campaign financial disclosure report for calendar year 2019 by February 28, 2020, the eleventh day after it was due. Because of this failure, the BOE is authorized to impose an additional civil penalty against Respondent pursuant to La. R.S. 18:1505.4(A)(4)(b).

Adjudicatory hearings under La. R.S. 18:1505.4(A)(4)(a)-(b) cover two kinds of campaign finance disclosure reports candidates must file in connection with elections. La. R.S. 18:1505.4(A)(4)(a) addresses reports that candidates must file between the time the candidate qualifies for the election and the election day. La. R.S. 18:1505.4(A)(4)(b) addresses “other reports” candidates must file in connection with an election at other times. In either case, the BOE must prove by clear and convincing evidence¹⁴ that the candidate knowingly¹⁵ failed to file a required report within the six-day or eleven-day period following when it was due, respectively.

Respondent was a candidate for Commissioner of Insurance, which is a major office. Every candidate for a major office is required to file certain campaign finance disclosure reports by the statutory deadlines.¹⁶ Failure to timely submit required reports constitutes a violation of the CFDA.¹⁷

La. R.S. 18:1495.4(D)(3)(a) provides that if the candidate is not an elected public official

¹³ See BOE-4.

¹⁴ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.... The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

¹⁵ La. R.S. 18:1505.4(A)(1).

¹⁶ La. R.S. 18:1495.4.

¹⁷ La. R.S. 18:1505.1(B).

and their deficit or surplus is equal to or greater than \$2,500, the candidate shall file annual supplemental reports with the BOE containing all the information required by La. R.S. 18:1495.5, no later than February 15, each year, which shall be complete through the end of the preceding year. This report shall be filed each year for five years or until a report has been filed which shows no deficit or surplus.

On June 2, 2017, Respondent filed a Candidate's Report for the period of January 1, 2016, through December 31, 2016, which stated his funds on hand exceeded \$2,500. Respondent did not file a supplemental campaign financial disclosure report for calendar year 2019 by February 28, 2020, the eleventh day after it was due.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed \$10,000 against Respondent for each report that he failed to timely file.¹⁸ Respondent's failure to file his supplemental campaign financial disclosure report for calendar year 2019 within three days after the final date for filing created a rebuttable presumption of intent to not file the report.¹⁹ Nothing in evidence rebuts this statutory presumption.

With the benefit of the un rebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to timely file his supplemental campaign financial disclosure report for calendar year 2019. As a result, the BOE is authorized to impose an additional civil penalty of up to \$10,000 for the report as authorized by La. R.S. 18:1505.4(A)(4)(b).

¹⁸ LA. R.S. 18:1505.4(A)(4).

¹⁹ La. R.S. 18:1505.1(A).

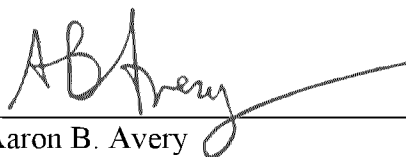
ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 against Donald C. Hodge Jr. for his failure to file his supplemental campaign financial disclosure report for calendar year 2019 by the eleventh day after it was due.

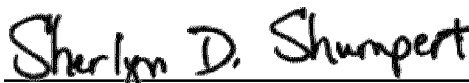
Rendered and signed on April 30, 2021, in Baton Rouge, Louisiana.



Lance B. Vinson
Presiding Administrative Law Judge



Aaron B. Avery
Administrative Law Judge



Sherlyn D. Shumpert
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Friday, April 30, 2021, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court

Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in La. R.S. 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure (La. C.C.P.) article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request rehearing, reopening, or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
(225) 219-9820

MAIL documents to:
DAL – EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art. 5059. To determine your review rights, you should act promptly and seek legal advice.